

June 16, 2015

At a regular meeting of the Board of County Commissioners, Washington County Colorado, held at the Courthouse in Akron, Colorado on the 16th day of June 2015, there were present:

Terry Hart, Chairman	present
David Foy, commissioner	present
Lea Ann Laybourn, commissioner	present
Garland Wahl, clerk of the board	present
Peter 'Larry' Vana, county attorney	present

Invocation was given by Sue Spencer, Pastor First Presbyterian Church.

The Pledge of Allegiance was recited by those present.

James Thompson, (970-222-6397) regional director from **U.S. Senator Michael Bennett's office** called to inquire about the **levee that broke** and how it is affecting the **flooding in the Messex area**.

Commissioner Foy stated that Washington County will continue to get damage until the levee is fixed. Breech of the levee has caused county roads to wash out, problems for the railroad, and damage to homes and/or access to them. The levee is located in Morgan County just across the county line. Mike McCaleb, Emergency Manager sent aerial photos of the flood and Chris Packer will forward them to Thompson.

Tim Dore, **State Representative** for Washington County, called to inquire about the **levee that broke**. He was given the same information stated above.

Alan Foutz, representative from **U.S. Senator Cory Gardner's office** called to inquire about the levee that broke and the flooding in the Messex area.

It was moved by Commissioner Foy and duly seconded by Commissioner Laybourn to approve the **Agenda with additions**. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Laybourn and duly seconded by Commissioner Foy to approve the **Schedule of Bills for the County** from the General, Road and Bridge, Health Care, TV Translator, Landfill, Capital Expenditure, and Justice Center, payables for June 16, 2015 with a value of \$38,014.57. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Foy and duly seconded by Commissioner Laybourn to approve the **Request for Capital Purchase amendment** for the **Sheriff's Department** to add \$788.00 to the total cost a Chevy Tahoe to cover the cost of repairing the trade in vehicle - 2009 Chevy pickup - because the wind blew a dumpster into it. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Laybourn and duly seconded by Commissioner Foy to approve the **Schedule of Bills for the Nursing Home** for June 16, 2015 with a value of \$8851.40. On roll call vote, all votes being yes, the motion passed.

It was moved by Commissioner Foy and duly seconded by Commissioner Laybourn to approve the **Schedule of Bills for Pioneer Haven** for June 16, 2015 with a value of \$994.18. On roll call vote, all votes being yes, the motion passed.

Brenda Rhea, **Nursing Home Administrator** reported there are 27 residents today. We have it set up to take some of the residents to the ground breaking, July 23, 2015, for the new Nursing Home. After the ground breaking we will serve a meal with a cowboy theme at the Nursing Home. This will take the place of Luau. Financials were reviewed.

Chris Packer, County Administrator Report:

- Brenda Rhea and I had our first meeting with Phipps, Omera Architect Contractor (OAC). The next meeting will be June 25 and we will meet every other week on Thursdays. The official ground breaking for the new Nursing Home will take place July 23, 2015 at 11:00 am. Phipps is taking care of the ground breaking ceremony. He will have shovels and hard hats. Who do we want to invite to participate? The fencing is up and the construction trailer will arrive next week. There can be no drop by visits on site. The only visits will be during the architect meetings. Excavators will be there June 22, 2015 to start.
- Spelts Roof repair project is under way, Human Service, Pioneer Haven, and Clinic buildings are finished. The courthouse just needs finishing work. We will be sending another payment in a few days.
- I discussed soffits on the carnival building with David Spurling. He will check it out and get back to us. The carnival insurance will cost the same as in past - \$2400. It will cover July 28 through August 2, 2015.
- I've asked the county attorney, Larry Vana, to write a resolution for you to sign today for financial/leadership training for the Green House Project. The training will cost \$111,000.
- I'm requesting three days of leave time June 16-17-18. I will be here part time those days.
- Packer reviewed Gary Peterson contract and his request. Peterson was given extra pay for the hours he worked to cover the time Margie Goodyear would have worked.

Larry Vana, County Attorney Report:

Resolution 89-2015 It was moved by Commissioner Foy and duly seconded by Commissioner Laybourn after discussion to authorize the Chairman of the Board to sign the Technical Assistance Agreement Statement of Work No. 2 relating to **educational and technical assistance from Community Solutions Group LLC** to implement activities relating to the opening of the **new nursing home project** (Green House Project) in an amount not to exceed \$111,000 pursuant to the terms as contained therein. On roll call vote, all votes being yes, the motion passed.

Vana stated it was ok for Road and Bridge District #3 to put up Flyers, advertising for part-time help, in the southern part of the county.

Present at the **Elected Officials and Department Heads meeting** were: Commissioners – Terry G. Hart, David Foy, Lea Ann Laybourn; Clerk and Recorder – Garland Wahl; Assessor – Larry Griese; Assistant to the Board – Val Foutz; Finance Director – Donna Morris; Attorney – Larry Vana; Ambulance Director – Tony Wells; Facilities Operations Manager – Jim McCracken; Road Supervisors – Jason Lockard, Districts #1 & #2 and Steve Williams – District #3; Nursing Home Director – Brenda Rhea

Morris: nothing.

Rhea: I'd like to get cement fixed before fall at Pioneer Haven. We have 27 residents today. We are excited about the ground breaking for the new Nursing Home on July 23, 2015. A meal will be served at the current Nursing Home after the ground breaking. Dani Thompson is leaving so I'm looking for a bookkeeper.

Vana: I wrote a resolution authorizing the chairman to sign a Technical Assistance Agreement Statement Work No.2 relating to educational and technical assistance from Community Solutions Group LLC.

McCracken: we have lots of mowing to do. The repairs and new roof replacement from hail storm last fall are getting done by Spelts Roofing. The Ag building at the fairgrounds is done and victory house is being worked on. The museum buildings are done. The crane they use is great

Griese: Spelts used malarkey shingles and they are good quality shingles and last for 50 years.

Hart: I looked into steel shingles for the nursing home but they are costly. They would be the same as the ones on the Catholic Church. The nursing home roof isn't sloped though.

Wells: we will have training Saturday on the power cots. We don't have to carry an extra battery with the new cots they can operate manually if needed.

Hart: what are you going to do with old ones?

Wells: I bought three in 1999. They are in need of a battery upgrade system. Someone in Utah might want one, we will keep one for backup and the coroner might want one. Last Chance, Anton, Otis and Akron will each get a new one.

Griese: getting data for assessment audit on personal property and gravel pits. Looked at two properties that the owners filed a protest.

Vana: I will be getting information from Griese to publish notice for Board of Equalization Hearing.

Lockard: been working the flood area in Messex. A levee broke and the flood water doesn't look like it's going to back off for two to three weeks. We are working roads, getting gravel and trying to mow. There was another 1" of rain in Messex area Sunday night.

Foy: Wagner equipment representative thought your new mowers would be in Yuma as of Friday.

Hart: it will take 50 60 belly dumps to repair damage.

Lockard: 2 mile-wide river so can't tell and the levee is right against the river.

Hart: who owns the levee?

Lockard: don't know. The levee broke in the same spot in 2013 plus this time it also broke in another spot.

Foy: Tim Dore, our state representative, call to inquire how much damage and how big of an area we were dealing with. Senators Michael Bennett and Cory Gardner offices have called today also.

Lockard: will we get money this time to help?

Foy: small chance.

Lockard: water was fast moving in 2013 flood but this time it is slow moving and more spread out.

Foy: we issued a Declaration of Emergency for the 2015 Flood of the South Platte River dated May 12, 2015.

Williams: hauling dirt and gravel, blading roads and get mowers going. I'm putting flyers in my area to see if I can get people to run mowers.

Laybourn: roads are horrible because of all the rain.

Hart: people have been patient about the roads.

Williams: everyone has been patient about roads. Farmers just can't get crops planted. Oil trucks have to go when it rains and some put chains on so really tore everything up.

Hart: compared to a neighboring county our roads are good.

Wahl: clerk conference was last week in Durango. The conference was geared for new clerks and training session for them. The county elected officials have received letters questioning in lieu of bond process.

Foutz: we've had Use by Special Review hearings and two by oil companies will have 119 road cuts in the southern part of the county. One of the pipelines may request a substation in road and bridge district #3. I've had inquiries about two cell towers and possibly a third one wanting to go in. Viaero is looking at putting up a tower on Highway 34 at the Washington County border. Verizon has to move their equipment off Y-W Electric tower so they are putting up another one.

Williams: there will be a pumping station for one of the pipelines off highway 36. The pipeline company may pave the road from highway 36 to the pumping station. We have lots of oil traffic from Lincoln County hauling on County Roads M, W, and U. Trailers getting overweight permit to go on highway 36.

Lockard: some farmers do the same with corn trucks.

Vana: how do we stop people from tearing up the roads? We can impose restrictions on county roads. It is interesting how the flooding in Messex helped us. The railroad wants to close one crossing and rework another crossing. The crossing they wanted to rework washed out again in the flood and the one they want to close is only way in to Messex.

Foy: taking care of Green House funding that was uniquely put together - private/public tax credit. It's a new concept growing out there and several others are looking at it.

Hart: at our CCI conference in Keystone discussion was how to get money and maintain roads we have. One of the suggestions was to pay more fuel tax by adding \$20.00 on registration fees - look for new revenue source. It is predicted that by 2040 traffic will double on I 25. CCI conference speaker, Kyle Cooper, at the eastern meeting talked about assessment and gave formulas.

Laybourn: at the CCI conference there was discussion that a toll lane might be added to I-25. It will soon cost \$12.00 during peak hours to drive on Highway 36 in the metro area. One of the panel discussions was Improving County Administrations, Operations and Governances lead by Garfield and Douglas County Commissioner and Fair Managers. We are going to have a study done on County Road RR south of Highway 34 to Highway 36 for classification, number, and speed of vehicles using the road. Keynote speaker at our meeting in Weld County yesterday was US Senator Cory Gardner. We are seeking cost estimates for the installation of three solar lights at the fairgrounds that we want completed by mid-July. All the fair contracts are signed. James Thompson from Michael Bennett's office called today about the levee break caused by the flood.

Vana: Delta Chi will handle mud volleyball at the fair this year. At the attorney's conference we talked about identity theft.

Val Foutz, Zoning Official presentation:

A letter came from **Viaero Wireless** proposing to construct a **new wireless telecommunications facility** located on the southwest side of the Arickaree School in Washington County which is off County Road 12. The new facility will consist of a 195-foot Self-Supporting Tower. They were asking if the proposed facility has any historic property. Laybourn advised Foutz to see if the school received the same letter.

Foutz would like to **purchase three new Use By Special Review signs** from Commercial Printers & Signs in Fort Morgan at \$225.25 per sign. Foutz requested the funds in the 2015 budget.

Travis Diamond has all the forms to request **vacating County Road X.75**. The Town of Akron doesn't use that road to get to their water wells. Foutz was instructed to inform Diamond to bring the paperwork in and talk to the Board of County Commissioners. Foutz will see that the signs are posted notifying the public that there is a request to vacate the road.

Commissioners Hart and Foy were excused from the meeting to check on the damages from flooding in the Messex area caused by a levee breaking in Morgan County.

Regan Benson talked to Commissioner Laybourn and County Attorney Larry Vana about her conversation at the May 26, 2015 commissioner meeting regarding the Sheriff not meeting an open records request. Benson stated she was asking for the sheriff's office to outline its citizen complaint process in the form of a policy – which to date they still have not done so in a proper response. Benson stated she has to assume there is no specific complaint process or procedure so her only recourse for proper redress of her local government is to provide public comment – here to the commissioners – at the board of county commissioners.

Benson emailed the county attorney, commissioners and clerk of the board comments about a situation regarding her minor son and the sheriff's department.

Benson read a statement she forwarded to the county attorney, commissioners and clerk of the board stating, "I am a firm believer in the constitution and limited government. I also believe in protecting the rights of the individual. I also do not take idle threats by those in a position of authority lending credence to me relinquishing my rights out of fear, as many of my fellow citizen might – so that that I want to read a direct quote written in a police report by a newly hired deputy for the sheriff's office in Washington County. So you have some pre-text to this quote – you should know this...if you are a believer in the constitution and individual rights- what I'm about to read you constitutes kidnapping of my minor son by law enforcement with an attempt to involve another government agency in the act of kidnapping. Some more pre-text – when my son was taken into "custody" by the WACO sheriff's office – he was not read his rights – he was placed in handcuffs while 3 other minors that were with him were allowed to contact their parents. My son was not allowed to contact his parents and it wasn't until I contacted him after he was 10 minutes late coming home – that he answered his phone and told me he had been taken to the sheriff's dept."

His dad Brenton, and I immediately went to the sheriff's dept. and upon arrival - we were locked out of entering the building- while our son sat in there. After continuing to stand there- knocking on the door as people inside were standing there at the door staring at us- making an apparent attempt to debate whether or not to let us in- we were finally let in by a deputy who made an immediate demand that we will come in there and respect them. Then this deputy put his hands on me as I attempted to go talk to my son who was sitting in a room surrounded by multiple deputies and jail workers- and told me that I would be waiting to talk to my son as another kid was standing in the lobby with his mother and all other kids had already been released to their parents. After a brief 10 minute interaction with a deputy that was clearly out of control- this is what he wrote in his report:

*"I explained the citation and the charges on Benson boy (which he did not). I asked the women or the male to sign and Benson boy to sign. They again refused. They then started in on me about how I was going to release Benson boy to tow random people that I could not prove were his parents. I told them she had said I had her son arrested and he called her mom. I as I was satisfied with that. I asked if they were Brenton and Regan Benson and they said they were. I told them they had to sign the citation for Benson boy to be released as we needed their signature as proof he was released to a responsible party. They continued to refuse. Sgt. Thompson spoke up and explained this also as I was getting very frustrated with Regan and Brenton at this point. Regan and Brenton continued to argue with Sgt. Thompson and I about signing for Benson Boy's release. **I told them that I would be contacting the***

Department of Human Services to take responsibility for Benson boy if they refused to sign. They very smugly told me to go ahead and asked leif I thought DHS was going to take their kid. I told Regan that someone was going to and if they were refusing to I had to call DHS as I could not put Benson boy in jail as he is a 17yoo. I contacted dispatch to have them send DHS over to the Sheriff's office. Sgt. Thompson again talked to Regan and Brenton and attempted to explain to them why they needed to sign the citation. They continued to refuse to sign. Sgt. Thompson at this time told me to just write refused to sign on the ticket and document why."

Now- with this quote there are also serious indiscretions within the report that indicate dishonesty and illegal property confiscation- I'm going to save you those details. If I had not called Benson boy and he had not answered his phone- even though he was supposedly under arrest with access to his phone- what would've happened to him that night? One only knows.


I need to file a complaint- this needs to be documented and processed with integrity- honesty and the due process that it is owed. Is this what you envision your county becoming? A hub for DHS to remove kids from parents who aren't responsive to LE demands of unlawful compliance? To have kids removed from their homes by a direct violation of the 4th amendment? I honestly do not believe that you as elected officials in good faith, and service to the people are in support of this.

So today, in addition to providing you with this piece of a complaint that I believe is owed serious attention, I'm going to ask the county commissioners to act. How I would like you to act is to consider passing a resolution for the County of Washington that includes language as such:

The Sheriff of Washington County will not fail to provide a fair and equitable process of investigating all citizen complaints with integrity, honesty and a forthright willingness to uphold the rights of the individual in the county. This should include a documented process of proper adopted policy and procedure applicable to the federal and state constitution. Citizens will be provided with a timely and accurate response from the sheriff on the disposition of an honest investigation.

So with that- I will be back and hopefully you will have had some time to consider my request and are able to act on that.

There being no further business the meeting was adjourned.


Garland Wahl, Clerk of the Board


Terry G. Hart, Chairman Board of County Commissioners